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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,607	11/21/2001	Yuko Tsusaka	2001_1746A	1544
513	7590	10/04/2004	EXAMINER	
WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021			THAI, HANH B	
		ART UNIT		PAPER NUMBER
		2171		
DATE MAILED: 10/04/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/989,607	TSUSAKA ET AL.	
Examiner	Art Unit		
Hanh B Thai	2171		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 21 November 2001.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-19 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-19 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 21 November 2001 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_

This is in response to application filed November 21, 2001 in which claims 1-19 are presented for examination.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 101*

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological art. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological art fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a method claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

As to technological arts recited in the preamble, mere recitation in the preamble (i.e., intended or field of use) or mere implication of employing a machine or article of manufacture to perform some of the recited steps does not confer statutory subject matter to an otherwise abstract idea unless there is positive recitation in the claim as a whole to breathe life and meaning into the preamble. In *Bowman (Ex parte Bowman*, 61 USPQ2d 1665, 1671 (BD. Pat. App. & Inter. 2001) (Unpublished), the board affirmed the rejection under U.S.C. 101 as being directed to non-statutory subject matter.

Although *Bowman* discloses transforming physical media into a chart and physically plotting a point on said chart, the Board held that the claimed invention is nothing more than an abstract idea, which is not tied to any technological art or environment.

In the present case, claim 16 recites a "distribution content". Which consists of purely non-functional descriptive material. Thus, it is deemed to be directed to non-statutory subject matter.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States.

Claims 1-4 and 8-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Hurtado et al. (US 6,611,812).

Regarding claim 1, Hurtado discloses a distribution content creating apparatus comprising:

- content storage means for storing content bodies (col. 9, lns. 25-36 and col. 10, lns 6-8, Hurtado). Secure container is content storage for storing content bodies;
- distribution content creating means for creating a distribution content by reading a content body from said content storage means and providing the content body with a use condition (col.9, lns. 55-64 and col. 12, lns. 8-37, Hurtado)  
; and
- content storage means for storing the distribution content created by said distribution content creating means, wherein said distribution content creating means includes management data editing means for editing management data indicating the use condition effective to a specific section of the read content body, and
- said distribution content creating means creates the distribution content by providing the content body with at least one piece of management data edited by the management data editing means (col. 90, lns. 55-64, Hurtado).

Regarding claim 2, Hurtado further discloses that the management data prohibits use of the section specified by the management data, allows the use of the section specified by the management data for free, or allows the use of the section specified by the management data in return for payment of a predetermined fee (col.9, lns. 61-64, Hurtado).

Regarding claim 3, Hurtado further discloses that the management data further indicates a replay order of the section specified by the management data (col. 95, lns. 51-63, Hurtado).

Regarding claim 4, Hurtado further discloses the content body with a plurality of pieces of management track data, and each piece of management track data defines a collection of at least one piece of said management data indicating at least one section used for a predetermined purpose as one management track corresponding to the purpose (col. 95, lns. 8-29, Hurtado).

Please note that data songs on the CD are the track data.

Regarding claim 8, Hurtado further discloses the distribution content creating means further includes replay means for reading the distribution content from said distribution content storage means and replaying, based on said management data, the specific section of the said content body (col. 91, lns. 43-65, Hurtado).

Regarding claim 9, Hurtado further discloses the replay means selects one of the plurality of pieces of management track data included in the read distribution content and, based on at least one piece of the management data included in the management track defined by the management track data, and replays at least one specific section of said content body (col. 95, lns. 51-63, Hurtado).

Regarding claim 10, Hurtado discloses a method of creating a distribution content including a content body provided with a use condition, said method comprising:

- a step of storing content bodies (col. 9, lns. 25-36 and col. 10, lns 6-8, Hurtado).  
Secure container is content storage for storing content bodies;
- a step of creating a distribution content by reading a content body stored in said content body storing step and providing the content body with the use condition (col.9, lns. 55-64 and col. 12, lns. 8-37, Hurtado); and
- a step of storing the distribution content created in said distribution content creating step, wherein in said distribution content creating step, management data indicating the use condition for a specific section of the content body is edited, and the distribution content is created by providing the content body with at least one piece of the edited management data (col. 90, lns. 55-64, Hurtado).

Regarding claim 11, Hurtado discloses a content distribution system comprising:

- a distribution content creating apparatus for creating a distribution content including a content body provided with a use condition (element 101, Fig.6 and corresponding text; col.9, lns. 55-64 and col. 12, lns. 8-37, Hurtado);
- a distributing apparatus for distributing the distribution content created by said distribution content creating apparatus (element 111, Fig.6 and corresponding text, Hurtado); and
- a terminal for receiving and using the distribution content distributed by said distributing apparatus (Device 609, Fig.6 and corresponding text), wherein said distribution content creating apparatus includes: content storage means for storing content bodies; distribution content creating means for creating the distribution content by reading a content body from said content storage means and providing the

content body with the use condition; and first distribution content storage means for storing the distribution content created by said distribution content creating means, said distribution content creating means includes management data editing means for editing management data indicating the use condition for a specific section of the content body, said distribution content creating means creates the distribution content by providing the content body with at least one piece of the management data edited by the management data editing means, and said terminal includes receiving means for receiving the distribution content distributed by said distributing apparatus; second distribution content storage means for storing the distribution content received by said receiving means; and replay means for reading the distribution content from said second distribution content storage means, and replaying, based on said management data, the specific section of said content body (col. 91, lns. 43-65 and col. 95, lns. 51-63, Hurtado).

Regarding claim 12, Hurtado discloses a terminal for receiving and using a distribution content including a content body, and management data indicating a use condition for a specific section of the content body, said terminal comprising:

- receiving means for receiving said distribution content (Device 609, Fig.6 and corresponding text, Hurtado);
- distribution content storage means for storing the distribution content received by said receiving means (storage 103, Fig.6 and corresponding text); and

- replay means for reading the distribution content from said distribution content storage means, and replaying, based on said management data, the specific section of said content body (col. 91, lns. 43-65 and col. 95, lns. 51-63, Hurtado).

Regarding claim 13, Hurtado further discloses the use condition indicated by said management data prohibits use of the section specified by the management data, allows the use of the section specified by the management data for free, or allows the use of the section specified by the management data in return for payment of a predetermined fee, said terminal further comprises billing means for billing based on said management data, and when the use condition allows the use of the section for free, said replay means replays the section, and when the use condition allows the use of the section in return for payment of the predetermined fee, the replay means replays the section after said billing means charges the fee (col. 79, lns. 22-46, Hurtado).

Regarding claim 14, Hurtado further discloses that the management data further indicates a replay order of the section specified by the management data, and said replay means replays at least one section specified by the management data in the replay order indicated by the management data (col. 95, lns. 51-63, Hurtado).

Regarding claim 15, Hurtado further discloses a plurality of pieces of management track data defining a collection of at least one piece of said management data indicating at least one section used for a predetermined purpose as one management track corresponding to the purpose, and said replay means selects one of the plurality of pieces of management track data included in the read distribution content and, based on at least one piece of the management data included in

the management track defined by the management track data, replays at least one specific section of said content body (col. 85, ln. 64 to col. 86, ln. 67, Hurtado).

Regarding claim 16, Hurtado discloses a distribution content comprising:

- a content body (storage 103, Fig.6 and corresponding text). Electronic digital content storage stores the content body; and
- at least one piece of management data, wherein said management data indicates a use condition for a specific section of said content body (col.9, lns. 55-64 and col. 12, lns. 8-37, Hurtado).

Regarding claim 17, Hurtado further discloses the use condition indicated by said management data prohibits use of the section specified by the management data, allows the use of the section specified by the management data for free, or allows the use of the section specified by the management data in return for payment of a predetermined fee (col.9, lns. 61-64, Hurtado).

Regarding claim 18, Hurtado further discloses said management data further indicates a replay order of the section specified by the management data (col. 95, lns. 51-63, Hurtado).

Regarding claim 19, Hurtado further discloses a plurality of pieces of management track data, wherein each piece of management track data defines a collection of at least one piece of said management data indicating at least one section used for a predetermined purpose as one management track corresponding to the purpose (col. 95, lns. 8-29, Hurtado). Please note that data songs on the CD are the track data.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hurtado et al. (US 6,611,812) in view of Purnaveja et al. (US 6,006,241).

Regarding claim 5, Hurtado further discloses character input means for supplying a character input (col. 20, lns. 9-13, Hurtado).

Hurtado, however, does not disclose GUI input means for supplying a GUI input, wherein said management data editing means makes a GUI screen displayed, the GUI screen including a plurality of management tracks provided along a time axis, said management data editing means edits the management data of the specific section by receiving, through said character input means, a start time and an end time for defining the specific section of said content body on the time axis, and the use condition for the predetermined purpose, and said management data editing means places, based on the edited management data, a bar on the management track corresponding to the purposes in said GUI screen.

Purnaveja, discloses the GUI ("LiveScreen, 245, Fig.2) for synchronizing the display of the video stream including the author tool that contains a flipper time track bar of start time and end time indicator (col. 7, lns. 9-19, Purnaveja). It would have been obvious to one of ordinary skill in the art to apply the user interface of Purnaveja to Hurtado's system. The motivation of

doing so is to provide many advantages including the ability of "ease of installation and use" (col. 5, lns. 49-66, Purnaveja).

Regarding claim 6, Hurtado/Purnaveja combination further discloses the management data storage means for storing the management data edited by said management data editing means (col. 90, lns. 55-64, Hurtado).

Regarding claim 7, Hurtado/Purnaveja combination further discloses management data editing means reads the management data previously edited from said management data storage means, and places, based on the read management data, a bar on the management track in said GUI screen, and said management data editing means edits the management data by moving one end and/or the other end of the bar along the time axis through an operation by said GUI input means (col. 5, lns. 49-66, Purnaveja).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh B Thai whose telephone number is 703-305-4883 and 571-272-4029 after October 21, 2004. The examiner can normally be reached on 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 703-308-1436. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hanh Thai  
Art Unit 2171  
September 20, 2004

*Uyen Le*  
**UYEN LE**  
**PRIMARY EXAMINER**